

Exhibit B

John Francis Myklusch

11/03/2006

08:47:27 UNITED STATES DISTRICT COURT

08:47:27 FOR THE DISTRICT OF MASSACHUSETTS

08:47:27 -----

08:47:27 IN RE:

CERTIFIED ORIGINAL
LEGALINK BOSTON

08:47:27 SONUS NETWORKS, INC.,

08:47:27 LITIGATION

08:47:27 Civil Action No.

08:47:27 04-10294-DPW

08:47:27 Lead Case

08:47:27 -----

08:47:27 9:30 a.m.

08:47:27 November 3, 2006

08:47:27

08:47:27 399 Park Avenue

08:47:27 New York, New York

08:47:27

08:47:27 DEPOSITION of JOHN FRANCIS MYKLUSCH, a
08:47:27 Witness in the above entitled matter, taken
08:47:27 pursuant to Notice, before Stephen J. Moore, a
08:47:27 Registered Professional Reporter, Certified
08:47:27 Realtime Reporter, and Notary Public of the
08:47:27 State of New York.

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09:39:48 2 A We are a registered investment
09:39:50 3 advisor under the '40 Act.

09:39:57 4 Q **What's the relationship between**
09:39:58 5 **Trilogy Global Advisors and BPI Global Asset**
09:40:00 6 **Management?**

09:40:02 7 A Trilogy Global Advisors was the
09:40:06 8 entity that was created when Trilogy Advisors
09:40:09 9 and BPI Global Asset Management merged
09:40:12 10 together.

09:40:12 11 Q **When did that happen?**

09:40:14 12 A That happened in May of 2005.

09:40:24 13 Q **So, is BPI Global Asset**
09:40:25 14 **Management still in existence?**

09:40:28 15 A BPI Global Asset Management has
09:40:30 16 been merged into Trilogy Global Advisors.

09:40:45 17 MS. COFFEY: Can we mark as
09:40:46 18 Exhibit 1 the amended notice of taking
09:40:49 19 deposition of the amended notice of
09:40:54 20 taking of deposition of BPI Global Asset
09:40:57 21 Management.

09:40:58 22 (The above described document was
09:40:58 23 marked Exhibit 1 for identification as of
09:41:36 24 this date.)

09:41:39 25 Q **The stenographer has just marked**

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09:42:45 2 Q **What is your position, for shorthand is it okay if I refer to it as Trilogy?**

09:42:50 5 A That's fine.

09:42:50 6 Q **What is your position at Trilogy?**

09:42:52 8 A I am the Chief Financial Officer and I am the Chief Compliance Officer.

09:43:05 10 Q **What are your duties and responsibilities as Chief Financial Officer?**

09:43:11 12 A It's the financial management of Trilogy Global Advisors as an entity as it relates to our current business plan, or our current goals of the entity, so fiscal management.

09:43:33 17 Q **On a day-to-day basis what does that entail?**

09:43:38 19 A Interacting with my Comptroller on different financial matters, reviewing client contracts, ensuring appropriate payments have gone in, fiscal matters are done in a correct way, budgeting, it can be any one of a number of fiscally related items.

09:44:00 24 Q **You mentioned interacting with**

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09:49:12 2

Why does it matter? Where is the relevance of it?

09:49:17 4

MS. COFFEY: You can go ahead and answer the question.

09:49:22 6

A On the finance side Rose Blechner who is the Comptroller and Camille Whitsett.

09:49:41 9

Q **What's Camille Whitsett's position?**

09:49:43 11

A Camille is a Vice President with -- she is either a Vice President or an associate currently, I am not sure as to which title she currently holds.

09:49:59 15

Q **So you have been employed by Trilogy since the merger in 2004, correct?**

09:50:05 17

A I was employed before that and after that.

09:50:08 19

Q **Right, and before the merger you were employed by BPI?**

09:50:12 21

A Trilogy Global, I have worked for Trilogy Global Advisors.

09:50:18 23

MR. CERA: Go ahead, let him finish.

09:50:19 24

A In 1999 I began working with

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09:50:25 2 Trilogy Advisors. When we merged I became a
09:50:30 3 dual officer and dual titles with BPI and
09:50:36 4 Trilogy Advisors and Trilogy Global Advisors
09:50:42 5 and I hold the majority of those titles today.

09:50:48 6 Q So in 1999 when you began
09:50:49 7 working with Trilogy Advisors what was your
09:50:51 8 position?

09:50:53 9 A I was the Chief Financial
09:50:54 10 Officer and Compliance Officer, and I did not
09:51:00 11 take on a Chief Compliance Officer role until I
09:51:04 12 believe it was mandated by the rule that the
09:51:08 13 SEC has most recently passed regarding that.

09:51:12 14 Q Did those positions change prior
09:51:14 15 to the merger?

09:51:16 16 A Do you mean did the titles
09:51:17 17 change?

09:51:18 18 Q Yes.

09:51:20 19 A I believe the rule required
09:51:22 20 was -- I believe the rule for Chief compliance
09:51:27 21 officers predicated our merger, so yes.

09:51:30 22 Q Otherwise were there any changes
09:51:31 23 in your titles prior to the merger?

09:51:33 24 A I most likely have received some
09:51:35 25 merit increases, I believe I started as a Vice

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10:26:22 2

Q Why did you speak with

10:26:23 3

Mr. Sweeney about the Sonus case?

10:26:26 4

A Because I would consider him to

10:26:28 5

be one of the more knowledgeable persons about

10:26:30 6

what had gone on or where the case stood or the

10:26:32 7

positions that BPI had.

10:26:35 8

Q Have you read the complaint in

10:26:36 9

this case?

10:26:41 10

A I have read the complaint, I

10:26:44 11

don't know if I read every word, but I read the

10:26:47 12

majority of it.

10:26:48 13

Q Do you know the basic

10:26:49 14

allegations?

10:26:50 15

A I do know the basic allegation.

10:26:53 16

Q Could you describe it?

10:26:54 17

A My understanding is that Sonus

10:27:00 18

had made what were allegedly misstatements in

10:27:09 19

securities filings and there are instances

10:27:12 20

of -- alleged instances of revenue manipulation

10:27:21 21

inside of these filings which required

10:27:24 22

restatements to these filings.

10:27:31 23

Q Do you know how BPI Global came

10:27:32 24

to be a Plaintiff in this case?

10:27:36 25

A I was not affiliated at the

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10:27:37 2 time, so no.

10:27:41 3 Q Do you know where the lawsuit is
10:27:42 4 pending?

10:27:43 5 A In Boston, I believe.

10:27:45 6 Q Do you know if it's state or
10:27:45 7 federal court?10:27:48 8 A I believe the charges are --
10:27:49 9 securities are federal, so it would have to be
10:27:53 10 a federal court.10:27:55 11 Q Do you know what the status of
10:27:56 12 this case is?10:27:57 13 A I believe it is awaiting class
10:28:00 14 action certification, which is where it stands
10:28:03 15 today.10:28:04 16 Q Do you know the name of the
10:28:05 17 judge?10:28:10 18 A I know it starts with a W, I
10:28:13 19 don't recall his exact last name.10:28:16 20 Q Do you know if there has been a
10:28:17 21 trial set in this case?10:28:19 22 A I believe there has been a date
10:28:20 23 set for February next year.10:28:32 24 Q Other than Mr. Sweeney, have
10:28:35 25 you -- and Mr. Kileen, have you spoken to

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10:28:37 2 **anyone else about this litigation?**10:28:42 3 A I discussed earlier that I
10:28:44 4 discussed this litigation with several
10:28:48 5 colleagues in the industry.10:28:51 6 Q **Anyone else other than Mr. Cera**
10:28:56 7 **and Ms. Markert?**10:28:58 8 A I would say the management of
10:28:59 9 Trilogy has been kept apprised at a generic
10:29:04 10 level of the case.10:29:06 11 Q **What has your involvement in**
10:29:08 12 **this case thus far entailed?**10:29:11 13 MR. CERA: I object to form. Go
10:29:12 14 ahead.10:29:12 15 A I would say from the point in
10:29:13 16 which I picked it up, the two matters that I
10:29:17 17 was involved most closely with were the
10:29:20 18 interrogatories which are mentioned in this
10:29:23 19 document in front of me, and the document
10:29:29 20 collection.10:29:34 21 Q **Anything else?**10:29:38 22 A Probably had a number of
10:29:39 23 conversations with counsel surrounding the
10:29:41 24 Sonus case, in particular when I picked up
10:29:48 25 after Chuck had left the company, I had a

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10:43:58 2 the investment person, so not the trader.

10:44:01 3 Q Who is the trader?

10:44:02 4 A His name was Kyle, Kyle Anderson
10:44:04 5 was his name.10:44:09 6 Q What was Dan Jaworski's
10:44:11 7 position?

10:44:11 8 A My understanding is CIO.

10:44:17 9 Q What about John Sorenson?

10:44:19 10 A I do not know the titles of the
10:44:22 11 remainder of those individuals.

10:44:24 12 Q Or Paul Holland?

10:44:33 13 A No.

10:44:41 14 Q We have been talking about this
10:44:42 15 merger between -- can we go off the record.

10:44:47 16 (Discussion off the record.)

10:45:48 17 MS. COFFEY: We can go back on
10:45:49 18 the record now.10:45:53 19 Q Perhaps it's a good time to
10:45:54 20 clarify, does BPI Global currently exist?10:45:59 21 A BPI Global Advisors was merged
10:46:03 22 up and into Trilogy Global Advisors, but in the
10:46:07 23 merger agreement we left a stipulation so that
10:46:10 24 lawsuits in its name could proceed in its name.

10:46:15 25 Q Other than that stipulation does

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10:46:17 2 BPI Global still exist?

10:46:20 3 MR. CERA: I object to the form,
10:46:21 4 calls for a legal opinion and
10:46:23 5 conclusion.

10:46:24 6 A My understanding is it's --

10:46:27 7 MR. CERA: Do you have anything
10:46:27 8 to add to --

10:46:29 9 THE WITNESS: No.

10:46:32 10 A It's Trilogy Global Advisors
10:46:34 11 now.10:46:35 12 Q I am going to ask you the
10:46:36 13 question one more time just so I can make sure
10:46:38 14 you are answering the right question.10:46:39 15 Other than the stipulation you
10:46:41 16 mentioned regarding the lawsuits moving forward
10:46:43 17 in the name of BPI Global, is BPI Global still
10:46:46 18 in existence?10:46:49 19 A Only as it relates to its merger
10:46:54 20 inside of Trilogy Global Advisors.10:47:06 21 Q What was the role -- to your
10:47:08 22 knowledge what was the role of CI Mutual Funds
10:47:12 23 and the preparation of the Complaint?10:47:16 24 MR. CERA: Objection to the form,
10:47:16 25 may call for privileged communication.

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11:14:42 2

I'm sorry, I'm not going to permit
that. Is that what you are planning on
doing?

11:14:47 5

MS. COFFEY: Unless you are
objecting on grounds of privilege he is
required to answer the question.

11:14:50 8

MR. CERA: That is just a
complete, abject waste of time and you
know that's inappropriate.

11:14:56 11

**Q Mr. Myklusch, you were tasked
with responding to these interrogatories,
correct?**

11:15:00 14

A Yes.

11:15:00 15

**Q Did you review these definitions
and instructions when you were responding to
them?**

11:15:06 18

A We relied on counsel to answer
or to assist us in answering these questions
correctly.

11:15:13 21

**Q So, did you review these
definitions and instructions in responding to
these interrogatories?**

11:15:18 24

A No, we would have relied or I
would have relied on counsel to make sure my

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11:15:21 2 answers were appropriate given the rules stated
11:15:26 3 in the rules that apply in interrogatories such
11:15:30 4 as this.

11:15:35 5 Q Let me turn then to item H on
11:15:37 6 Page 2 which defines the term short sale. Can
11:15:45 7 you tell me what the term short sale means to
11:15:48 8 you?

11:15:49 9 A The term short sale is when an
11:15:52 10 individual borrows a security, usually on
11:15:55 11 margin, creates a loan for that security, and
11:15:59 12 then sells it creating the obligation to repay
11:16:02 13 back that security.

11:16:07 14 Q Item I on Page 2, the term hedge
11:16:09 15 or hedging transaction, can you tell me what
11:16:12 16 the term hedging transaction means to you?

11:16:14 17 MS. MARKERT: Are you asking for
11:16:14 18 something different other than what you
11:16:14 19 defined in the interrogatory, Melissa?
11:16:14 20 I'm a little confused.

11:16:20 21 MS. COFFEY: Is that an
11:16:21 22 objection?

11:16:25 23 MS. MARKERT: No, I'm just asking
11:16:25 24 for clarification, I don't understand
11:16:25 25 the question.

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11:31:55 2 would have been the only persons, but I have to
11:31:57 3 assume that all matters in relation to this
11:32:02 4 case probably went through Chuck.

11:32:06 5 Q Are you aware of whether any
11:32:08 6 communications have occurred between the lead
11:32:16 7 Plaintiff and any member of the purported class
11:32:18 8 or subclass since these interrogatories were
11:32:20 9 signed?

11:32:20 10 A I have no knowledge of any.

11:32:24 11 Q Are you aware there is a
11:32:25 12 continuing obligation to supplement the
11:32:27 13 responses to interrogatories?

11:32:29 14 A I am aware of a continued
11:32:33 15 requirement to discover additional items under
11:32:38 16 the interrogatories, or as we find other
11:32:41 17 documents that would have been required under
11:32:44 18 the document requests.

11:32:51 19 Q Page 6, Exhibit 3.

11:32:54 20 Interrogatories number 4,
11:32:56 21 identify each person or former officer,
11:32:58 22 director or employee of Sonus with whom
11:33:02 23 eventually lead Plaintiff has had any
11:33:05 24 communication.

11:33:06 25 Can you tell me the process you

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JOHN MYKLUSCH11:33:07 2 **understood to respond to this interrogatory?**11:33:09 3 A I worked with counsel to answer
11:33:11 4 this question. I believe counsel was able to
11:33:16 5 uncover themselves the fact that there were
11:33:20 6 none.11:33:25 7 Q **Did you take any steps**11:33:26 8 **independent of counsel to determine that?**

11:33:29 9 A I had none.

11:33:33 10 MR. CERA: You had no
11:33:34 11 communications of this kind?11:33:35 12 A I had no communications of this
11:33:36 13 kind.11:33:41 14 Q **Who would know if these**
11:33:42 15 **communications occurred?**11:33:48 16 A Chuck Sweeney would be the only
11:33:49 17 other person, but my understanding is that an
11:33:55 18 interview or counsel had helped answer this
11:33:58 19 question.11:34:03 20 Q **On Page 7, interrogatory number**
11:34:07 21 **5, identify all securities analysts with whom**
11:34:13 22 **lead Plaintiff has had communication concerning**
11:34:15 23 **the facts set forth in the Complaint.**11:34:18 24 What steps did you take to
11:34:19 25 respond to this interrogatory?

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11:37:58 2 Complaint, provide certain information about
11:38:01 3 the document, person name, time and place where
11:38:04 4 the source gave the information, et cetera.

11:38:06 5 What steps were taken to respond
11:38:08 6 to this interrogatory?

11:38:44 7 A It's my understanding counsel
11:38:47 8 had conversations with both Chuck Sweeney and
11:38:50 9 John Bichelmyer to make them comfortable that
11:39:12 10 they were the only individuals who would have
11:39:27 11 had knowledge like this.

11:39:30 12 Q Were you involved in
11:39:31 13 interviewing -- were you involved in
11:39:34 14 interviewing individuals who may have had
11:39:36 15 information regarding these interrogatories?

11:39:39 16 A Not every single interrogatory.

11:39:45 17 Q Were you involved in those
11:39:45 18 interviews for any of the interrogatories we
11:39:47 19 have reviewed so far?

11:39:49 20 A Yes.

11:39:51 21 Q Which ones?

11:40:12 22 A 1 and 2.

11:40:28 23 Q So, with regards to 3, 4, 5 and
11:40:30 24 6, did you have any -- did you participate at
11:40:35 25 all in coming up with a response to those

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11:40:38 2 **interrogatories?**11:40:41 3 A Would have worked with counsel
11:40:42 4 to ensure that the answers that we were putting
11:40:46 5 are correct and their steps were taken were
11:40:50 6 correct to answering the questions.11:40:52 7 Q **Were you involved before the**
11:40:53 8 **responses were drafted?**11:40:54 9 A Was I involved before the --
11:40:56 10 MR. CERA: I object to form.11:40:59 11 A I definitely saw the
11:41:00 12 interrogatories before responses were drafted.11:41:05 13 Q **Were you involved in responding**
11:41:06 14 **to interrogatories 3, 4, 5 and 6 before the**
11:41:09 15 **responses were drafted?**11:41:11 16 A In the process of answering the
11:41:13 17 interrogatories I would have had a conversation
11:41:15 18 with counsel about all of the interrogatories
11:41:17 19 and what steps that we felt were the best
11:41:19 20 methods of answering the interrogatories.11:41:26 21 Q **Okay.**11:41:32 22 Let's move to Page 9, to
11:41:34 23 interrogatory number 7.11:41:50 24 Actually let's move on to the
11:41:51 25 response to number 6 on Page 9 also.

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11:53:59 2 Plaintiff's response to interrogatory number 8.

11:54:04 3 What was the process for
11:54:05 4 responding to this interrogatory?11:54:06 5 A This is the document discovery
11:54:08 6 process which we feel was a pretty
11:54:11 7 comprehensive process.11:54:17 8 Q Interrogatory number 10,
11:54:18 9 identify any fee arrangement or agreement
11:54:20 10 between you and any person regarding the
11:54:21 11 payment of attorneys' fees or costs in this
11:54:23 12 action.11:54:25 13 The response references a
11:54:27 14 responsive document which I believe is the fee
11:54:29 15 arrangement, the engagement letter between BPI
11:54:31 16 and Mr. Cera's law firm.11:54:34 17 Are you aware of any other fee
11:54:36 18 arrangement or fee agreement?

11:54:37 19 A No.

11:54:38 20 Q What was done to respond to this
11:54:40 21 request?11:54:42 22 A I had seen that letter and my
11:54:43 23 understanding is a copy -- I believe a redacted
11:54:46 24 copy of that letter was provided.

11:54:50 25 Q Was there any investigation into

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11:54:51 2 **whether any other arrangements existed?**11:54:54 3 A I had discussion with counsel at
11:54:55 4 the time these interrogatories were produced,
11:54:59 5 we discussed whether there were any others and
11:55:01 6 they said no.11:55:07 7 Q **Interrogatory number 11,**
11:55:08 8 **identify every legal, court, administrative,**
11:55:10 9 **regulatory or quasi-judicial proceeding in**
11:55:13 10 **which you in any way have been involved within**
11:55:14 11 **the last 10 years, including but not limited to**
11:55:17 12 **as a party litigant, indemnitor or witness.**11:55:20 13 **And their response lists in re:**
11:55:22 14 **Turkcell, I can't pronounce that securities**
11:55:26 15 **litigation.**11:55:28 16 **What was done to respond to this**
11:55:29 17 **request, this is this interrogatory, excuse me?**11:55:32 18 A I believe counsel spoke to Chuck
11:55:37 19 Sweeney and probably did a search on the name,
11:55:40 20 but I'm not aware of the full extent of the
11:55:42 21 process that went into responding to number 11.11:55:45 22 Q **Are you aware of any other**
11:55:46 23 **proceedings in which BPI or any of its**
11:55:48 24 **representatives was involved?**

11:55:49 25 A I am not aware of any others.

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11:55:53 2 Q So, no proceedings in which BPI
11:55:54 3 was involved as a litigant?

11:55:56 4 A I am aware of no other
11:55:57 5 proceedings in which BPI was a litigant.

11:56:00 6 Q Or an indemnitor?

11:56:04 7 MR. CERA: Objection to the form.

11:56:04 8 A None to my knowledge.

11:56:05 9 Q Or a witness?

11:56:08 10 A Not to my knowledge.

11:56:12 11 Q Are there any ongoing efforts to
11:56:14 12 continue to respond to these interrogatories or
11:56:16 13 supplement the responses?

11:56:21 14 MR. CERA: I object to form.

11:56:24 15 A I am relatively certain that to
11:56:26 16 the extent any other information was required
11:56:29 17 to be provided under these interrogatories,
11:56:31 18 counsel would bring that matter to my
11:56:33 19 attention.

11:56:36 20 Q Are there any ongoing efforts to
11:56:37 21 respond to these interrogatories?

11:56:41 22 MR. CERA: Objection to the form.

11:56:41 23 A Other than our discussions with
11:56:42 24 counsel, I would say no.

11:56:57 25 MS. COFFEY: Can we go off the

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11:56:59 2 record.

11:57:12 3 (At this point in the proceedings
11:57:12 4 there was a luncheon recess, after which
11:57:12 5 the deposition continued as follows:)12:35:18 6 MR. CERA: Before we begin, I
12:35:19 7 wanted to say that we have considered
12:35:20 8 your request that you be allowed to
12:35:22 9 inquire into the communications with
12:35:23 10 Mr. Kileen and you may go ahead and do
12:35:27 11 so.

12:35:28 12 MS. COFFEY: Okay, thank you.

12:35:30 13 Q Mr. Myklusch, welcome back, I
12:35:32 14 hope you had a good break.12:35:35 15 Let's return to that now, the
12:35:38 16 issue of your conversations with Michael Kileen
12:35:40 17 who was counsel for CI Mutual Funds regarding
12:35:43 18 this litigation.12:35:46 19 What was the substance of your
12:35:48 20 conversations with Mr. Kileen?12:35:50 21 A We had discussions regarding the
12:35:51 22 broad strokes of the Sonus suit.

12:35:59 23 Q How many discussions occurred?

12:36:01 24 A I think we had two discussions
12:36:02 25 regarding Sonus.

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12:36:04 2 Q Who initiated those discussions?

12:36:05 3 A I did in both instances.

12:36:07 4 Q Why did you initiate those
12:36:09 5 discussions.12:36:09 6 A In the first instance it was
12:36:12 7 when I had, I would say, picked up where Chuck
12:36:17 8 left off with regard to Sonus, just his general
12:36:21 9 knowledge of the case and just broad strokes
12:36:23 10 about the Sonus case, and the second was in the
12:36:28 11 case of when we were required to provide
12:36:31 12 documents, I solicited Mike Kileen's help with
12:36:35 13 the delivery of documents that were requested.12:36:41 14 Q Why did you, regarding you
12:36:43 15 picking up where Mr. Sweeney left off, why did
12:36:45 16 you speak to Mr. Kileen instead of Mr. Sweeney
12:36:47 17 at that time?

12:36:50 18 MR. CERA: I object to the form.

12:36:53 19 A CI had owned a very large stake
12:36:55 20 in BPI, would have been involved in the matter
12:36:58 21 in some form or fashion, and I wanted to
12:37:02 22 understand that he did know about the case and
12:37:05 23 what he knew about the case, just very general
12:37:11 24 what's out there.

12:37:16 25 Q Do you remember specifically

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13:08:04 2 Q Do any agreements exist between
13:08:07 3 any of the BPI entities and CI Mutual Funds to
13:08:10 4 the extent there is a recovery in this case?

13:08:14 5 A Any recoveries in this case
13:08:17 6 would be allocated to the clients themselves,
13:08:18 7 not to CI as an entity.

13:08:22 8 So there are no formal
13:08:24 9 agreements, but I think it would be against our
13:08:29 10 fiduciary duty to pay any kind of recoveries in
13:08:32 11 any other fashion than would benefit the
13:08:35 12 clients that were injured during the class
13:08:36 13 period.

13:08:38 14 Q So, there are no formal
13:08:39 15 agreements regarding the payment of the
13:08:40 16 recovery?

13:08:41 17 A There are no formal agreements.

13:08:50 18 Q Moving to request number 5 on
13:08:51 19 Page 5, documents concerning Plaintiff's prior
13:08:54 20 involvement with legal or regulatory proceeding
13:08:56 21 involving the federal securities laws.

13:08:58 22 What steps were taken to respond
13:08:59 23 to this request?

13:09:03 24 A Counsel was the individuals
13:09:07 25 involved with fulfilling this request.

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14:46:31 2

Q (Continuing) -- whether you

14:46:32 3

have any personal knowledge of any of the

14:46:34 4

allegations in the Complaint?

14:46:38 5

A If your question is asking me

14:46:40 6

whether I am aware of the specific allegations

14:46:43 7

or any of the specific specifics of the case in

14:46:50 8

that layer of detail, then the answer is no.

14:46:56 9

Q Do you know who Peter Hemming

14:46:58 10

is?

14:46:59 11

A I believe Peter Hemming is the

14:47:00 12

Comptroller of Sonus.

14:47:06 13

Or was the Comptroller, I'm

14:47:08 14

relatively sure he's not today.

14:47:13 15

Q Do you have any personal

14:47:14 16

knowledge of any of the allegations that are

14:47:16 17

made against Mr. Hemming?

14:47:19 18

A I do not.

14:47:57 19

Q Who is the individual at BPI or

14:48:06 20

Trilogy who has primary oversight

14:48:09 21

responsibility for this litigation?

14:48:17 22

A How would you define oversight?

14:48:21 23

Q What do you understand by that

14:48:22 24

term?

14:48:24 25

A If you mean the ability to make

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14:48:26 2 decisions on a going forward basis, would that
14:48:30 3 be a fair -- so if something were to come about
14:48:33 4 that required a decision by BPI or Trilogy that
14:48:38 5 this person would have that ability, is that --

14:48:41 6 Q I will take that.

14:48:42 7 A I would say the two individuals
14:48:44 8 that I report to, both Carol Holley and Ryan
14:48:47 9 Burrow, would be the people that I would look
14:48:50 10 to inform, in conjunction with counsel, what
14:48:56 11 our potential decisions are and then depending
14:48:59 12 on what they felt, they could then make that
14:49:04 13 decision.

14:49:05 14 Q Do you have any understanding as
14:49:06 15 to how much time either of those individuals
14:49:08 16 have spent providing such oversight for this
14:49:10 17 litigation?

14:49:12 18 MR. CERA: I object to form.

14:49:19 19 A No, I don't know offhand.

14:49:33 20 Q Do you understand that either
14:49:34 21 you or those individuals have such
14:49:40 22 responsibility to oversee the conduct of lead
14:49:43 23 Plaintiff counsel?

14:49:44 24 A Yes, we understand that we need
14:49:48 25 to watch over the case to make sure the case is

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14:49:50 2 progressing in a reasonable manner, to stay
14:49:54 3 involved.

14:49:56 4 Q You mentioned the May 2006 order
14:49:58 5 of the court previously, do you remember that?

14:50:01 6 A Yes.

14:50:07 7 Q Are you aware that the Section
14:50:12 8 10(a) and 10(b) (5) claims against my client
14:50:17 9 were dismissed?

14:50:18 10 A I do -- I was made aware by
14:50:21 11 counsel that several claims for both Mr. Amed
14:50:27 12 and Mr. Nill were not upheld by the judge, but
14:50:33 13 that it's my recollection that several of the
14:50:37 14 issues were allowed to proceed.

14:50:39 15 MR. CERA: Can I hear the answer
14:50:41 16 back, I just didn't hear.

14:50:42 17 (The answer requested was read back
14:50:42 18 by the reporter.)

14:51:07 19 Q Which claims are you aware that
14:51:10 20 survived the motion to dismiss?

14:51:12 21 A I am not aware of which claims
14:51:17 22 were allowed to survive.

14:51:20 23 Q Is there anyone within either
14:51:23 24 Trilogy or BPI that would be aware of the
14:51:27 25 status of the case vis-a-vis what claims have

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14:51:30 2 **been upheld and what claims have been**14:51:31 3 **dismissed?**14:51:32 4 A We rely on counsel to keep us
14:51:34 5 apprised and to tell us what we need to know in
14:51:40 6 relation to the case, to provide us with an
14:51:43 7 appropriate QA, both, we can ask counsel where
14:51:55 8 the case is proceeding.14:52:25 9 Q **Are you aware of how BPI Global**
14:52:37 10 **came to engage the Gold Bennett firm?**14:52:42 11 MR. CERA: That was asked and
14:52:43 12 answered previously. You can go ahead
14:52:44 13 and answer.14:52:45 14 MR. MATULE: It was some time
14:52:46 15 ago. I ask your indulgence.14:52:48 16 A I was not affiliated with BPI at
14:52:50 17 the time, so I do not know the exact procedures
14:52:52 18 that we went through to engage counsel.14:52:57 19 Q **Have you since come to know?**14:53:00 20 A I, upon taking over my portion
14:53:05 21 of the case, taking over the responsibility to
14:53:09 22 keep the members of Trilogy informed and
14:53:12 23 follow-up on the case, did have a discussion
14:53:16 24 with counsel about themselves, their
14:53:20 25 qualifications and the case as it stood so far.

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14:53:30 2

MR. MATULE: Can you read that

14:53:31 3

answer back.

14:53:32 4

(The answer requested was read back

14:53:32 5

by the reporter.)

14:53:54 6

Q Not wanting to get into the

14:53:56 7

conversations that you had with counsel, have

14:54:03 8

you since you became or have taken on the

14:54:07 9

duties that you have taken on in connection

14:54:08 10

with this case, either in conversations with

14:54:13 11

Mr. Sweeney or Mr. Kileen, come to any

14:54:16 12

understanding as to how the Gold Bennett firm

14:54:21 13

became counsel for BPI?

14:54:24 14

A I have not discussed the matter

14:54:25 15

with either of them.

14:54:34 16

I'm sorry, I have not discussed

14:54:36 17

that question with either of them.

14:54:50 18

Q To your knowledge, is BPI

14:54:53 19

responsible for the payment of any costs in

14:54:55 20

connection with the litigation?

14:54:59 21

A Per -- it's my understanding

14:55:01 22

that per our letter agreement with counsel BPI

14:55:04 23

is not responsible for those costs.

14:55:30 24

Q I will ask you to dig out from

14:55:32 25

in front of you Exhibit 5 which is the initial

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14:55:36 2 disclosures. I direct your attention to
14:55:54 3 subpart B.

14:56:02 4 In (v) there is a reference to
14:56:05 5 SEC interview transcript. Have you ever seen
14:56:10 6 such a document?

14:56:11 7 A No, I have not.

14:56:31 8 Q Did you review this document
14:56:32 9 prior to it being signed and submitted by
14:56:34 10 counsel for lead Plaintiff?

14:56:36 11 A I had not seen this document.

14:56:41 12 Q Do you know if anyone from lead
14:56:43 13 Plaintiff reviewed this document prior to it
14:56:45 14 being submitted by lead Plaintiff's counsel?

14:56:47 15 A I don't know.

14:56:51 16 Q If not yourself, would either of
14:56:55 17 the two other individuals that you mentioned --

14:56:58 18 A Carol Holley or Ryan Burrow.

14:57:04 19 Q (Continuing) -- have reviewed
14:57:05 20 the document?

14:57:05 21 A No, they would not have, they
14:57:06 22 would not have reviewed it first. By first, I
14:57:23 23 mean before me.

14:57:44 24 Q Do you know who Michael Peruse
14:57:46 25 is?